

REMARKS

Claims 1-20 were pending in the application. Claims 5, 8 and 9 were previously withdrawn. By this paper, claims 1, 3, 5-8, 11, 13, 17, 18 and 19 have been amended and claim 2 has been canceled. No claims have been added. Therefore, claims 1 and 3-20 are now pending and resubmitted for reconsideration.

Applicants appreciate the Examiner's acknowledgement of the Information Disclosure Statement filed October 27, 2003 and of the claim for foreign priority.

Minor corrections have been made in claims 3, 5-8, 11, 13, 17, 18 and 19.

Applicant appreciates the courtesy extended by Examiner McMahon during the Interview held on November 18, 2005. The attached Interview Summary provides a proper recordation of the substance of the interview.

Allowable Subject Matter

Applicants appreciate the indication that claims 12-20 are allowed and that claims 4, 6 and 7 contain allowable subject matter.

Applicants respectfully request rejoinder of claims 5, 8 and 9, all of which depend from allowable claim 4.

Claim Objections

Claims 2, 3 and 11 are objected to for various informalities. The elements of claim 2 have been incorporated into claim 1 and claim 2 canceled. Claims 3 and 7 have been amended where appropriate. Reconsideration and withdrawal of these objections is respectfully requested.

Claim Rejections

Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 6,604,495 ("Moteki"). Further, claims 2 and 3 are rejected under 35 U.S.C.

103(a) as allegedly being unpatentable over Moteki. The rejections should be withdrawn for at least the following reason.

The recitations of claim 2 have been incorporated into independent claim 1. Claim 2 has been canceled. The rejection of amended claim 1 should be withdrawn because Moteki fails to identically disclose or describe

a controller programmed to determine a target hydraulic pressure by selecting a larger one of a first hydraulic pressure required to allow rotation of the control shaft to vary the compression ratio of the internal combustion engine such that knocking does not occur in the engine and a second hydraulic pressure required for holding the control shaft at a rotational position to maintain the compression ratio of the internal combustion engine,

as recited in claim 1. The Office Action states that Moteki discloses a “hydraulic control means 48 for variably controlling the hydraulic pressure supplied to the hydraulic actuator on the basis of the operating conditions of the internal combustion engine.” Office Action at p. 3. However, there is no disclosure in Moteki of a controller “programmed to determine a target hydraulic pressure by selecting a larger one of a first hydraulic pressure ... and a second hydraulic pressure.” Moteki only states that the compression ratio “can be variably controlled depending upon engine operating conditions.” Moteki at col. 6, lines 16-20; and *see also* col. 7, lines 65-67. Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 3 and 11 depend from claim 1 and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable subject matter set forth in these dependent claims.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moteki in view of U.S. Patent No. 6,516,757 (“Aoyama”). The rejection of claim 10 should be withdrawn at least because a *prima facie* case of obviousness has not been made. Claim 10 depends from claim 1. The references, taken together or separately, do not teach or suggest each and every element of claim 1. As stated above, Moteki does not identically teach or suggest:

a controller programmed to determine a target hydraulic pressure by selecting a larger one of a first hydraulic pressure required to allow rotation of the control shaft to vary the compression ratio of the internal combustion engine such that knocking does not occur in the engine and a second hydraulic pressure required for holding the control shaft at a rotational position to maintain the compression ratio of the internal combustion engine,

as recited in claim 1. Further, Aoyama fails to cure the deficiencies of Moteki. Therefore, reconsideration and withdrawal of the rejection of claim 10 are respectfully requested.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application, as amended, is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5414
Facsimile: (202) 672-5399

By Jessica M. Palmer Reg # 56,986 *fn*
JESSICA M. PALMER
Richard L. Schwaab
Attorney for Applicant
Registration No. 25,479